

## REMARKS

### Status of the Claims

In accordance with the foregoing, claim 14 has been cancelled, without prejudice or disclaimer and new claim 19 is added. Claims 1-13 and 15-19 are pending and under consideration. Respectfully, the rejection is traversed.

### Objections to the Claims

Claims 5-8 have been amended to overcome the objections.

### Allowable Subject Matter

Claims 11-12 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Claim Rejections under 35 USC 102

Claims 1-4 and 13-15 stand rejected under 35 USC 102(e) as being anticipated by Mikami (7,102,283).

Claim 1 recites:

a polarization controller rotating a polarization angle of an input optical signal and outputting polarization controlled light;

a polarization mode dispersion (PMD) compensating device compensating polarization mode dispersion of the polarization controlled light and outputting a PMD compensated light;

Mikami relates to compensators located on an optical fiber 1, which includes a polarization dispersion compensation circuit 12, a variable dispersion compensation circuit 13 on the reception side, and an optical reception circuit 14 that controls discrimination levels. See paragraph [0057].

The polarization dispersion compensation circuit 12 is constituted by a polarization controller, a double refraction device, a polarization monitor, and a control circuit. Mikami does not anticipate "a polarization controller **rotating a polarization angle of an input optical signal** and outputting polarization controlled light" (emphasis added). Rather, the polarization dispersion compensator 12 in Mikami only compensates polarization mode dispersion. See paragraph [0062].

In Mikami, when wavelength-multiplexing transmission is employed in the optical communication system, the variable dispersion compensation applied in the variable dispersion compensation circuits 11, 13 compensates a plurality of wavelengths collectively. The optical

reception circuit 14 is constituted by a light receiving element, an amplifier, a clock regeneration and discrimination circuit, a serial/parallel conversion circuit, and a control circuit for controlling the discrimination level. Mikami fails to anticipate “a polarization mode dispersion (PMD) compensating device **compensating polarization mode dispersion of the polarization controlled light and outputting a PMD compensated light**” (emphasis added). Rather, the “compensator 13, 14” is for compensating wavelength dispersion or a discrimination point.

Accordingly, claim 1 is not anticipated by Mikami and patentably distinguishes over the cited.

Claims 2-4 and 13 depend from claim 1 and include all of the features of that claim plus additional features. For at least the reasons stated above, claims 2-4 and 13 are not anticipated by Mikami and patentably distinguish over the cited art.

Claim 15 recites:

rotating a polarization angle of an input optical signal and outputting polarization controlled light through a polarization controller;

compensating a polarization mode dispersion of the polarization controlled light and outputting a polarization mode dispersion (PMD) light through a PMD compensating device to generate a PMD compensated light;

measuring a degree of polarization (DOP) of the PMD compensated light to generate a feedback signal indicating measured DOP of the PMD compensated light; and

controlling the polarization controller and PMD compensating device based on the measured DOP

In view of the above arguments, it is respectfully submitted that claim 15 is not anticipated by Mikami and patentably distinguishes over the cited art.

#### **Claim Rejections under 35 USC 103**

Claims 5-10 stand rejected under 35 USC 103(a) as being unpatentable over Mikami.

Claims 5-10 depend from claim 1 and include all of the features of that claim, plus additional features. Further, it appears that the Examiner has based these rejections, at least in part, on personal knowledge and taken Official Notice in regards to claims 5-8 and 9-10, respectively. It is respectfully submitted that the application of Official Notice in the Office Action is improper here. Official Notice can properly be taken of things or features that are notoriously well known. It is submitted that “polarization controllers comprising controllable birefringent elements of three-electrode sections of LiNbO3 substrate” and “dispersion compensation via

fixed or adjustable differential group delay" are notoriously well known is incorrect and the allegations are based on the Examiner's personal knowledge and not based on prior art. It is "never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principle evidence upon which a rejection was based." See MPEP § 2144.03(A).

Further, the Examiner failed to point to every recited limitation in claims 5-10. Each claim has a distinct recitation and it is inappropriate to fail to address every patentably feature of the claims when making a rejection.

The Examiner is requested to support the allegation with prior art or on affidavit as required by 37 CFR § 1.107(b). Otherwise, the rejection is without proper foundation and should be withdrawn, which is respectfully requested

#### **New Claim**

New claim 19 depends from claim 1 and includes all of the features of that claim, plus additional features. For at least the reasons stated above, claim 19 patentably distinguishes over the cited art.

#### **Conclusion**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

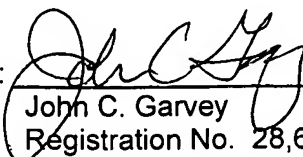
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 9-30-08

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